

SEP 25 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of: Stewart D. Chipman et al.      Docket No.: 3081-A

Serial No.: 10/001,848

Examiner: M.A. Belyavskyi

Filed: November 20, 2001

Art Unit: 1644

For: METHODS OF USING IMXP-888 AND IMXP-888 ANTAGONISTS

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Dear Sir:

This paper is filed in response to the Office Action dated May 21, 2003 (Paper No. 6), in which the Examiner required restriction of the elected invention to the subject matter of one of the following ten (10) groups of claims; and to elect a single disclosed species.

- Group I.      Claims 1-6, drawn to a method of activating the immune system in a mammal comprising administering to the mammal an effective amount of an IMXP-888 polypeptide, wherein IMXP-888 polypeptide comprises an amino acid sequence of residues 18 to 375 of SEQ ID NO:3 or a polypeptide that is at least 80% homologous to a polypeptide sequence that encodes residues 18 to 375 of SEQ ID NO:3, classified in Class 424, subclass 184.1;
- Group II.     Claims 1-4 and 6, drawn to a method of activating the immune system in a mammal comprising administering to the mammal an effective amount of an IMXP-888 polypeptide, wherein IMXP-888 polypeptide comprises an amino acid sequence of residues 13 to 371 of SEQ ID NO:1 or a polypeptide that is at least 80% homologous to a polypeptide sequence that encodes residues 13 to 371 of SEQ ID NO:1, classified in Class 424, subclass 184.1;
- Group III.    Claims 1-4 and 6, drawn to a method of activating the immune system in a mammal comprising administering to the mammal an effective amount of an IMXP-888 polypeptide, wherein IMXP-888

- polypeptide comprises an amino acid sequence of residues 13 to 280 of SEQ ID NO:2 or a polypeptide that is at least 80% homologous to a polypeptide sequence that encodes residues 13 to 280 of SEQ ID NO:2, classified in Class 424, subclass 184.1;
- Group IV. Claims 1-8, drawn to a method of activating the immune system in a mammal comprising administering to the mammal an effective amount of IMXP-888 polypeptide fused to a heterologous polypeptide, wherein IMXP-888 polypeptide comprises an amino acid sequence of residues 18 to 375 of SEQ ID NO:3 or a polypeptide that is at least 80% homologous to a polypeptide sequence that encodes residues 18 to 375 of SEQ ID NO:3, classified in Class 424, subclass 192.1;
- Group V. Claims 1-4 and 6-8, drawn to a method of activating the immune system in a mammal comprising administering to the mammal an effective amount of an IMXP-888 polypeptide fused to a heterologous polypeptide, wherein IMXP-888 polypeptide comprises an amino acid sequence of residues 13 to 371 of SEQ ID NO:1 or a polypeptide that is at least 80% homologous to a polypeptide sequence that encodes residues 13 to 371 of SEQ ID NO:1, classified in Class 424, subclass 192.1;
- Group VI. Claims 1-4 and 6-8, drawn to a method of activating the immune system in a mammal comprising administering to the mammal an effective amount of an IMXP-888 polypeptide fused to a heterologous polypeptide, wherein IMXP-888 polypeptide comprises an amino acid sequence of residues 13 to 280 of SEQ ID NO:2 or a polypeptide that is at least 80% homologous to a polypeptide sequence that encodes residues 13 to 280 of SEQ ID NO:2, classified in Class 424, subclass 192.1;
- Group VII. Claims 9, 10 and 12, drawn to a method of treating an inflammatory disorder in a mammal, comprising administering an effective amount of an IMXP-888 antagonist, wherein an IMXP-888 antagonist is an antibody, classified in Class 424, subclasses 130.1 and 139.1;
- Group VIII. Claims 9, 11 and 12, drawn to a method of treating an inflammatory disorder in a mammal, comprising administering an effective amount of an IMXP-888 antagonist, wherein an IMXP-

888 antagonist is a ribozyme, classified in Class 424, subclass 184.1;

- Group IX. Claims 13-17, drawn to a method of using an IMXP-888 polypeptide to identify an IMXP-888 receptor, classified in Class 435, subclass 7.1; and
- Group X. Claims 18-21, drawn to a method for identifying compound capable of enhancing or inhibiting a biological activity of an IMXP-888 polypeptide, classified in Class 435, subclass 7.1.

Applicants provisionally **elect, with partial traverse, Group I** for examination. With respect to the requirement for an election one of the species recited in claim 2, Applicants elect for initial examination purposes "viral infection." Claims 1-8 read upon the elected species.

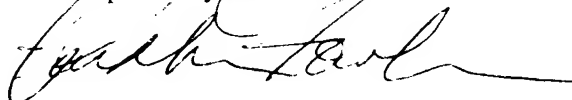
The restriction requirement is traversed on the grounds that the Office has not met it's burden of showing that the recited groups of claims are drawn to separate and distinct inventions. For example, groups I-III are all classified in the same Class and subclass, and are overlapping in scope. In addition, the claims of Groups IV-VI are encompassed within the scope of Groups I-III. Thus, Applicants respectfully request reconsideration and modification of the Restriction Requirement to consider the claims of Group I through VI together.

### CONCLUSION

A favorable action is respectfully requested. Should the Examiner believe that any issues could be resolved by way of a teleconference, the Examiner is invited to telephone the undersigned representative of the Applicants, to discuss resolution thereof.

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Respectfully submitted,



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### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date appearing below.

September 22, 2003  
Date

Elizabeth M. McCarthy  
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